

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

(1) FCI, LTD., d/b/a Finished Castings, Inc.,)	
an Oklahoma Corporation, and)	
(2) BERRYLIUM ENTERPRISES,)	
an Oklahoma Corporation,)	
)	
Plaintiffs,)	Civil Action No. 12-CV-388-GKF-FHM
)	
vs.)	(District Court, Rogers County,
)	Oklahoma Case No. CJ-2012-128)
)	
(1) THE TRAVELERS INDEMNITY)	
COMPANY OF AMERICA, A DOMESTIC)	
COMPANY,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant, The Travelers Indemnity Company of America (“Travelers”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1441 and 1446 and LCvR 81.2, files this Notice of Removal of the captioned action, styled *FCI, LTD, d/b/a Finished Castings, Inc., an Oklahoma corporation, and Berrylium Enterprises, an Oklahoma Corporation vs. The Travelers Indemnity Company of America, a Domestic Company*, Case No. CJ-2012-128, currently on the docket of the District Court of Rogers County, Oklahoma. In support of this Notice of Removal, Travelers respectfully states as follows:

GROUND FOR REMOVAL

1. On February 29, 2012, Plaintiffs FCI, LTD, d/b/a Finished Castings, Inc., an Oklahoma corporation, and Berrylium Enterprises, an Oklahoma Corporation (herein “FCI”), filed a civil action against The Travelers Indemnity Company of America (herein

“Travelers”) in the District Court of Rogers County, State of Oklahoma, Case No. CJ-2012-128 alleging breach of contract.

2. On March 21, 2012 Travelers filed its Answer to the Plaintiffs’ Petition.
3. On March 22, 2012 Travelers filed its Motion to Dismiss Plaintiff’s Petition or in the alternative Motion for Summary Judgment.
4. On April 13, 2012, Plaintiffs FCI filed a Motion to Amend their Petition, to add a claim for bad faith breach of contract.
5. On March 16, 2012, the Court overruled Defendant’s Motion to Dismiss and granted Plaintiffs’ Motion to Amend their Petition to add a claim for bad faith breach of contract.
6. On June 14, 2012, Plaintiffs FCI filed their Amended Petition, alleging damages in excess of \$75,000.00 for the first time.
7. On June 15, 2012, Travelers filed its Answer to Plaintiffs’ Amended Petition.
8. This Notice of Removal is being timely filed pursuant to 28 U.S.C. § 1446(b).

PARTIES

9. Plaintiff FCI is a corporation organized under the laws of the State of Oklahoma with its principal place of business in Pryor, Oklahoma.
10. Plaintiff Beryllium is a corporation organized under the laws of the State of Oklahoma with its principal place of business in Claremore, Oklahoma.
11. Defendant, The Travelers Indemnity Company of America, is a corporation organized under the laws of the State of Connecticut with its principal place of business in Hartford, Connecticut.

12. On the basis of the foregoing, complete diversity exists between the Plaintiffs and the Defendant.

PLAINTIFF'S ALLEGATIONS

13. Plaintiffs allege that on April 9, 2009 it suffered a loss related to a fire at their property. (Amended Petition ¶ 6).
14. Plaintiffs further allege Travelers breached the contract of insurance by not paying the claim in full. (Amended Petition ¶ 10).
15. Plaintiffs allege Travelers failed to deal fairly and in good faith with Plaintiff.
(Amended Petition ¶ 16).
16. The Amended Petition seeks, on behalf of Plaintiffs:
 - a. Damages in excess of \$10,000.00 on the contract claim;
 - b. A sum in excess of \$100,000.00 on the bad faith breach of contract claim;
 - c. \$500,000.00 in punitive damages;
 - d. Pre and post-judgment interest;
 - e. Attorneys' fees and costs. (Amended Petition, prayer for relief)

JURISDICTION AND VENUE

17. This is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332(a) and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(a) and (b). Specifically, this was a civil action asserting state law claims in which (1) the properly named Plaintiff and Defendant are citizens of different states; (2) based on Plaintiff's request for monetary relief, the matter in controversy exceeds \$75,000.00, exclusive of interest and costs; and

(3) the Defendant is not a citizen of the state in which the action is brought. See 28 U.S.C. §§ 1332(a) and 1441(b).

18. Defendant hereby removes this action to the United States District Court for the Northern District of Oklahoma, which is the judicial district in which the state court action is pending.

AMOUNT IN CONTROVERSY

19. Plaintiff's causes of action allege Travelers not only breached its contractual obligation but its duty to deal fairly and in good faith as well. Due to this conduct, Plaintiff asserts that it is entitled to recover actual and punitive damages in excess of \$75,000.00 (Petition, ¶18 and prayer for relief).

REMOVAL PROCESS

20. Written notice of the filing of this Notice of Removal will be given promptly to Plaintiff and a copy of the Notice of Removal will be filed with the Clerk of the District Court of Rogers County, State of Oklahoma, as provided by 28 U.S.C. § 1446(d).
21. A copy of all process, pleadings and orders served upon the defendant in the state court action are attached as Exhibits 1 through 12. A copy of the docket sheet from the Oklahoma Supreme Court Network is attached as Exhibit 13.
22. Defendant respectfully reserves its right to file all appropriate motions and raise all defenses and objections in this action after it is removed to the United States District Court for the Northern District of Oklahoma.

WHEREFORE, the Defendant, The Travelers Indemnity Company of America, hereby removes this action to this Court, invoking this Court's federal jurisdiction.

PIERCE COUCH HENDRICKSON
BAYSINGER & GREEN, L.L.P.

s/Tiffany L. Grant
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Attorneys for Defendant,
The Travelers Indemnity Company
of America

CERTIFICATE OF SERVICE

This is to certify that on this 12th day of July, 2012, a true and correct copy of the above and foregoing Notice of Removal was mailed, with postage thereon fully prepaid, to the following counsel of record:

Mr. Mark D. Lyons
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Attorneys for Plaintiffs

s/Tiffany L. Grant